

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA08-560

JENNIFER MARTIN

APPELLANT

V.

SCROLL TECHNOLOGIES and
WAUSAU INSURANCE COMPANY

APPELLEES

Opinion Delivered October 29, 2008

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[Nos. F609774, F609775]

AFFIRMED

LARRY D. VAUGHT, Judge

Appellant Jennifer Martin appeals the decision of the Workers' Compensation Commission,¹ finding that she did not sustain compensable injuries. Specifically, the Commission found that Martin failed to show a causal connection between her injuries and her employment because the contemporaneous medical evidence and the testimony of Martin's co-workers did not support her account. Further, the Commission found that Martin was not credible. On appeal, Martin argues that there is a lack of substantial evidence supporting the decision. We affirm.

When reviewing a decision from the Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to its findings and affirm

¹The Commission affirmed and adopted the opinion of the Administrative Law Judge.

that decision if it is supported by substantial evidence. *Death & Permanent Total Disability Trust Fund v. Branum*, 82 Ark. App. 338, 107 S.W.3d 876 (2003). Substantial evidence is that which a reasonable mind might accept as adequate to support a conclusion. *Id.* The issue is not whether we might have reached a different result from the Commission; if reasonable minds could reach the result found by the Commission, we must affirm. *Id.* We defer to the Commission's findings on what testimony it deems to be credible, and it is within the Commission's province to reconcile conflicting evidence and to determine the true facts. *Hargis Transport v. Chesser*, 87 Ark. App. 301, 190 S.W.3d 309 (2004).

In order to prove a specific-incident compensable injury, a claimant must prove by a preponderance of the evidence that the injury is caused by a specific incident and is identifiable by time and place of occurrence; the injury arose out of and occurred in the course of the employment; the injury caused internal or external physical harm to the claimant's body; the injury required medical services or resulted in disability; and medical evidence supported by objective findings established the injury. Ark. Code Ann. § 11-9-102(4)(A)(I) and (D) (Repl. 2002). Additionally, a claimant must prove a causal connection between her employment and the injury. *Crudup v. Regal Ware, Inc.*, 341 Ark. 804, 20 S.W.3d 900 (2000). The determination of whether a causal connection exists is a question of fact for the Commission to determine. *Jeter v. B.R. McGinty Mech.*, 62 Ark. App. 53, 968 S.W.2d 645 (1998).

Appellee Scroll Technologies makes compressors. In April of 2006, Martin was working in the "girth-weld" department, where she guided and attached compressors to an overhead hook with the use of a manipulator (a robotic arm). Martin testified that on April

10, 2006, she felt a sharp pain in her low back as she reached for the manipulator. She claimed that she reported the incident to co-worker Andy Biddle because her supervisor, Steve May, was not nearby.

She returned to work the next day, and, according to her testimony, was transferred to the “finals” department, where she removed fittings from and inserted oil into the compressors. She testified that on her first day in this department, she told May that she hurt her back on the manipulator. Martin continued to work after the alleged April 10, 2006 incident, but she testified that she worked with back pain. She said that all of her co-workers knew that she was hurting, including co-workers Yvonne Penney, Bridgette Lassiter, Jonathon Tate, Biddle, and May.

On June 6, 2006, Martin testified that she removed a fitting from a compressor and felt a sharp pain in her leg. Unable to move, Martin was assisted by May to the nurse’s station, where he called the company nurse/benefits coordinator, Caron Manning. Martin testified that Manning counseled May to not fill out a workers’ compensation report because the incident was not work related. May retrieved a wheelchair and helped Martin to her car.

Thereafter, Martin went to the emergency room for treatment. Martin acknowledged that the emergency-room report reflected that “she knows of no acute injury,” but maintained that she advised the emergency-room staff that she injured her leg and back at work. Martin returned to work two days later and worked until July 26, 2006, when she reported her work-related injuries to Manning and was referred by her to Amiee Hughes, a nurse practitioner, for medical treatment.

Martin was treated by Hughes on July 27, 2006. Martin testified that she reported to Hughes that her injuries occurred at work. However, she again acknowledged that Hughes's medical reports did not corroborate this. Hughes gave Martin an off-work release effective July 27, 2006. On September 28, 2006, Martin was seen by Dr. Lawrence Dodd, an orthopedic physician. Dr. Dodd's report contained Martin's history of back and leg pain caused by work-related incidents occurring in April and June of 2006.

May testified that Martin never reported to him that she suffered a work-related injury on April 10, 2006. He testified that he worked with Martin from April 10 to June 6, 2006, and she never reported any work-related injuries to him. He denied participating in the April 11 conversation with Martin. He admitted that he transferred Martin into the finals department; however, he testified that the transfer occurred "way before" April 11 and that it had nothing to do with an alleged injury.

May was aware of Martin's problems on June 6, 2006. He testified that he specifically asked her on that date how she hurt her leg, and Martin responded that she injured it while working in her yard. According to May, Martin never advised him that she hurt her leg at work. He helped her to the nurse's station and called Manning. When he told Manning that Martin injured her leg at home, Manning advised May not to fill out a workers' compensation report because it was not work related. May testified that at no time did Martin tell him that her injuries were caused by an on-the-job accident, and she did not argue with him when he concluded that they were not work related.

Manning, who administers work-related injuries at Scroll, testified that she never received any reports of a work-related injury involving Martin that occurred on April 10,

2006. On June 6, 2006, Manning received a call from May, advising that Martin was complaining of knee pain that was caused by working in her yard earlier that day. After Manning clarified with May that it was not a work-related injury, she recommended to May that Martin seek medical treatment from her family physician.

Manning testified that on July 26, 2006, Martin advised that she was still having knee problems. According to Manning, Martin did not report the injury as work related and never mentioned the April 2006 incident. It was not until Manning reviewed short-term disability paperwork filled out by Martin that Manning learned Martin claimed her injuries were caused by a work incident on June 6, 2006. Manning called Martin, who (for the first time) told Manning that her injuries were caused by work-related accidents that occurred in April and June of 2006.

Several other co-workers of Martin testified. Tate testified that he was working with Martin on April 10, 2006, and she never stated to him that she suffered a work-related injury on that date. He worked with Martin every day after April 10, 2006, until June 6, 2006, and the only complaint she made to him during that time was that her knee was bothering her.

Lassiter, who worked in the same department as Martin, testified that Martin told Lassiter that she was transferred into the finals department because she hurt her back. Lassiter also said that she heard Martin talk to her supervisor about her back pain. Penney, another co-worker, testified that when she suggested that Martin report her back pain to her supervisor, Martin responded that she was not sure if she hurt her back at work or working in her garden at home.

Based on these facts, we hold that substantial evidence supports the Commission's

opinion that Martin failed to show a causal connection between her injuries and her employment. Regarding the April 10, 2006 incident, there is no evidence in the record supporting Martin's claim that she suffered a work-related injury to her back on that date. There were no witnesses to the alleged injury. May, Tate, and Manning all denied that Martin reported an accident or back injury occurring April 10, 2006. Martin continued to work regular hours after the alleged incident. She did not seek medical treatment or see the company nurse following this incident. When Martin discussed her knee pain with the company nurse on July 26, 2006, Martin did not mention the alleged April back injury. The first time Martin went to the doctor after the alleged April 10, 2006 incident was June 6, 2006, and she did not report the April 2006 incident at that time. She did not report it to the nurse practitioner on July 26, August 14, or 23. She did not report the alleged April 2006 incident to a medical provider until September 28, 2006.

We disagree with Martin's contention that the Commission required her to prove the additional element that the medical evidence "set forth an analysis of cause and effect, so as to relate the need for treatment to an on-the-job injury." What the Commission did require Martin to prove was a causal connection between her employment and the injury. *Crudup, supra*. The Commission cited not only medical evidence that failed to establish a causal connection, but also the testimonial evidence of three of Martin's co-workers that failed to establish a causal connection. In this case, there was more than substantial evidence to support the Commission's decision.

Martin's challenge to May's credibility fails to persuade us. Martin questions May's testimony that he did not know about Martin's alleged back injury even though he admitted

he transferred her to another department. The evidence on this point was conflicting. Martin testified that she and May discussed her work injury and that he transferred her to a different department because of that injury. May denied any knowledge about Martin's back injury and contended that he transferred Martin to the finals department "way before" April 2006.

We note that the Commission specifically stated that it found Martin's version of events to be incredible. We further note that the Commission made no such finding as to May's testimony. To the contrary, the Commission relied upon the testimony of May, along with other co-workers of Martin, in reaching its conclusion that Martin failed to meet her burden of proof. We defer to the Commission's credibility findings. *Hargis Transport, supra*.

As for the June 2006 incident, the only evidence supporting Martin's claim that she suffered an injury on that date is her testimony and the fact that she was wheeled out of work in a wheelchair. Again, she failed to present the testimony of any co-workers who witnessed the alleged work injury to her leg. She told three co-workers that she hurt her knee at home earlier that day working in the yard. She failed to tell her medical provider on June 6, July 26, August 14, and 23 about the alleged work incident. The first time she reported to a doctor that the leg injury was caused by a work accident was September 28, 2006. Accordingly, we hold that substantial evidence supports the Commission's decision.

Affirmed.

ROBBINS and MARSHALL, JJ., agree.